

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 February 2024

DOCKET NUMBER: AR20230005282

APPLICANT REQUESTS: cancellation or remission of his Reserve Officers' Training Corps (ROTC) scholarship indebtedness.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- DA Form 597-3 (Army Senior ROTC Scholarship Cadet Contract)
- Department of Military Science Northeastern University Orders Number 109-1
- Military Entrance Processing Station (MEPS) Orders Number 7157017
- Leave and Earnings Statement for period ending 31 March 2023

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.
2. The applicant states in effect his ROTC scholarship debt should be canceled or remitted due to a contract failure. In lieu of repayment of the indebtedness, he enlisted in the Regular Army (RA) to fulfill the obligation of repayment. His recruiter advised him the indebtedness would be automatically forgiven after the completion of his first contract. He realized it was a misunderstanding when he was out-processing from active duty and he found out that his last paycheck was being fully allotted to repay the indebtedness.
3. The applicant enlisted in the U.S. Army Reserve (USAR) on 10 September 2014 and was assigned to the USAR Control Group (ROTC).
4. DA Form 597-3 dated 10 September 2014 shows the Army agreed to pay for a period of three academic years of scholarship benefits in the form of full tuition and fees and \$1,200.00 for books and laboratory expenses. The applicant agreed to enlist in the Reserve component and be assigned to the USAR Control Group (ROTC) and to

maintain a minimum of at least a 2.0 cumulative grade point average as a full time student.

a. Paragraph 5 stated if he were disenrolled from the ROTC program for a breach of contract he would be subject to reimbursement to the U. S. Government for advanced educational assistance the amount of monies paid plus interest or the Secretary of the Army may order him to active duty as an enlisted Soldier for a period of not more than 4-years for failure to complete the ROTC program.

b. Paragraph 5e stated he agreed that any obligation to reimburse will not be altered by subsequent enlisted duty. If he was disenrolled from ROTC, he understood the Secretary of the Army, or his or her designee, retains the prerogative to either order him to active duty or order monetary repayment of his scholarship benefits. Therefore, if he was required to repay the advanced educational assistance under the terms of this contract, his subsequent enlistment in an Armed Service would not relieve him from the repayment obligation.

5. The disenrollment packet provided by the U.S. Army Cadet Command shows on 17 February 2017, the applicant was notified disenrollment from the ROTC program was initiated based on his withdrawal from school, which constituted a breach of the terms of his contract. He acknowledged the notification of disenrollment and on 4 March 2017 he declined the call to active duty in order to fulfill his contractual obligation. On 11 April 2017, the Commanding General of the U.S. Army Cadet Command approved his disenrollment from the ROTC program for breach of contract due to his withdrawal from school and his obligation to the Army must be satisfied by repaying the cost of advanced education assistance provided by the Army in the amount of \$45,176.00.

6. Department of Military Science Northeastern University Orders Number 109-1 dated 18 April 2017 shows the applicant was discharged from the USAR Control Group (ROTC), effective 11 April 2017. The additional instructions stated in compliance with paragraph 3-44c of Army Regulation (AR)145-1 (Senior Reserve Officers' Training Corps Program: Organization, Administration, and Training), he was discharged from the ROTC Control Group because of his disenrollment from the Army ROTC Program in accordance with AR 145-1, paragraph 3-43a(4) (Disenrollment), AR 145-1.

7. The applicant enlisted in the RA on 6 June 2017, in the rank/grade of private (PVT)/E-1, for a period of 6 years.

8. The applicant was honorably released from active duty and transferred to the USAR Control Group (Reinforcement) on 5 June 2023. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 6-years of net active service. It also shows in block 18 (Remarks): Cadet Time from 3 September 2014 through 11 April 2017.

9. On 22 August 2023, Orders Number D-08-321836, issued by the U.S. Army Human Resources Command, honorably discharged him from the USAR Control Group (Reinforcement), effective 22 August 2023.

10. The applicant provides his Leave and Earnings Statement for the period of 1 through 31 March 2023 which shows a deduction from his pay for a miscellaneous debt in the amount of \$300.00. In the remarks block it states a miscellaneous debt current deduction in the amount of \$300.00 from a total debt of \$45,248.61 with a balance of \$25,748.61.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

2. The evidence of record confirms the applicant was accepted into an Army ROTC scholarship program. He fully understood and accepted the terms of his enrollment. He agreed that if he were disenrolled from the ROTC Program for any reason he would have to repay his scholarship debt or be ordered to active duty in the rank/grade of PV1/E-1 for an appropriate number of years, 4 years in his case. However, he did not satisfy the contractual requirements of this program and was discharged from the program on 11 April 2017.

3. On 6 June 2017, he enlisted in the Regular Army, for a period of 6-years, in the rank/grade of PVT/E-1, and he was honorably released from active duty on 5 June 2023. This enlistment and service on active duty serve the same purpose as it would have had he been ordered to active duty in the U.S. Army. In other words, the Department of Defense continues to receive the benefit of his service. Additionally, he completed more than the required 4 years of service. Therefore, as a matter of equity, it would be appropriate to consider his enlistment in the Regular Army on 6 June 2017 to have met the active duty obligation required by his ROTC scholarship contract.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

█	█	█	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined that the evidence presented was sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by:

- a. amending his DA Form 597-3 (Army Senior Reserve Officers' Training Corps (ROTC) Scholarship Cadet Contract), dated 10 September 2014 to show he satisfied the service obligation under the original terms of the ROTC contract as a U.S. Army enlisted Soldier, via his 6-year enlistment from 6 June 2017 to 5 June 2023.
- b. having DFAS review the records associated with his ROTC scholarship debt and, based on the above records correction, returning any funds the applicant paid into this debt.

█

█ █

---

█

█

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Title 10, USC, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. AR 600-4 (Remission or Cancellation of Indebtedness) provides policy and instructions for submitting and processing packets for remission or cancellation of indebtedness to the U.S. Army. Requests for remission or cancellation of indebtedness must be based on injustice, hardship, or both. A Soldier's debt to the U.S. Army may be remitted or canceled based on this regulation in cases arising from debts incurred while serving on active duty or in an active status as a Soldier.

3. AR 145-1 (Senior Reserve Officers' Training Corps Program: Organization, Administration, and Training), In effect at the time, prescribes policies and general procedures for administering the Army's Senior Reserve Officers' Training Corps (SROTC) Program.

a. Paragraph 3-39 (Termination of scholarship and disenrollment), the Commanding General, ROTC Cadet Command, is the approving authority for termination of scholarship and/or disenrollment. A scholarship will be terminated, and the cadet disenrolled for any of the reasons listed in paragraph 3-43.

b. Paragraph 3-43 (Disenrollment), a. A non-scholarship cadet may be dis-enrolled by the Professor of Military Science. A scholarship cadet may be dis-enrolled only by the CG, ROTCCC. Disenrollment authority does not include the discharge authority for Simultaneous Membership Program participants. Non-scholarship and scholarship cadets will be dis-enrolled for the following reasons: Subparagraph (6) (4) Because of withdrawal or dismissal from the academic institution. A former cadet may be reenrolled if he or she enters a school that offers ROTC, provided that he or she meets the reenrollment criteria in paragraph 3-16.

c. Paragraph 3-44 (Discharge and separation from the U. S. Army Reserve), c. Upon disenrollment from the ROTC, a cadet assigned to Control Group (ROTC), who is not ordered to active duty or pending such an order and has previously completed a basic training course conducted by a U.S. Armed Force, will be transferred to the IRR if the military service obligation has not been met. A cadet assigned to Control Group (ROTC) who is not ordered to active duty or pending such an order and has no previous military service, or who has not completed a basic training course, will be discharged. The effective date of discharge or transfer will be the date of disenrollment from the ROTC.

4. Title 10, USC, section 2005 (Advanced education assistance: active-duty agreement; reimbursement requirements), provides that the Secretary concerned may require, as a condition to the Secretary providing advanced education assistance to any person, that such person enter into a written agreement with the Secretary concerned under the terms of which such person shall agree:

a. That if such person does not complete the period of active duty specified in the agreement, or does not fulfill any term or condition prescribed, such person shall be subject to the repayment provisions of Title 37, USC, section 303a(e); and

b. To such other terms and conditions as the Secretary concerned may prescribe to protect the interest of the United States.

//NOTHING FOLLOWS//